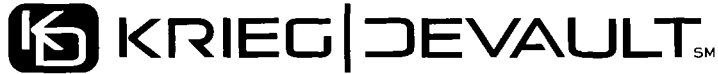




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WWW.KRIEGDEVAULT.COM

September 26, 2012

Vicki J. Wright
Direct Dial: (317) 238-6263
E-mail: vwright@kdlegal.com

Via Federal Express

Received

SEP 27 2012

Emergency Enforcement
Services Section

Carol Ropski
U.S. Environmental Protection Agency
Superfund Division
Enforcement and Compliance Assurance Branch
Enforcement Services Section; SE-5J
77 W. Jackson Blvd.
Chicago, IL 60604-3570

Re: South Dayton Dump and Landfill Site, Moraine, Ohio

Dear Ms. Ropski:

This letter responds to USEPA's September 13, 2012, general notice of potential liability addressed to Monsanto Company (GNPL). I attach and incorporate by reference Monsanto Company's February 21, 2006, response to USEPA's request for information regarding the South Dayton Dump and Landfill Site (Site). Specifically, I direct USEPA to the 2006 submission's explanation of the corporate history of Monsanto Company (incorporated in 2000) and Pharmacia Corporation (which was known as "Monsanto Company" until 2000). Consistent with that explanation, I submit this response on behalf of Monsanto Company and Pharmacia Corporation.¹

As explained in the 2006 submission and confirmed again here, Monsanto Company has located no information suggesting that either Monsanto Company or Pharmacia Corporation arranged for disposal of CERCLA hazardous substances to the Site.² On this basis, Monsanto Company and Pharmacia Corporation respectfully decline to perform and finance the activities

¹ As explained in the 2006 submission, to the extent that the GNPL is premised on operations conducted on behalf of the Department of Energy (DOE) at either Mound Lab or Dayton Lab in Ohio, I direct USEPA to DOE's Randy Tormey, Esq.

² Please refer to the following information as support of this position: Monsanto Company's February 21, 2006 104(e) response; deposition of Horace Boesch and deposition of Edward Grilliott in the matter captioned, *Hobart Corporation et al., v. Waste Management of Ohio, Inc., et al.*, No. 3:10-CV-195 (S.D. Ohio).

Ms. Carol Ropski
September 25, 2012
Page 2

described in the GNPL or to reimburse EPA for its costs associated with those activities. We remain open, however, to revisiting our decision in light of new relevant information. If USEPA has located information evidencing a CERCLA nexus between the Site and either Monsanto Company or Pharmacia Corporation, please let me know at your earliest convenience.

Very truly yours,



Vicki J. Wright

VJW:raj
Enclosure

cc: Molly Shaffer, Esq.
Randy Tormey, Esq.

MONSANTO



Mary M. Shaffer
Assistant General Counsel – Environmental
Direct Dial: (314) 694-3883
FAX: (314) 694-2920
E-mail: molly.m.shaffer@monsanto.com
Mail Code : E2NE

MONSANTO COMPANY
LAW DEPARTMENT
800 NORTH LINDBERGH BOULEVARD
ST. LOUIS, MISSOURI 63167
<http://www.monsanto.com>

February 21, 2006

Via Overnight Delivery

Fred R. Bartman
U.S. EPA Region 5
Remedial Enforcement Support
Section SR-65
77 W. Jackson Boulevard
Chicago, IL 60604

Re: South Dayton Dump & Landfill
Moraine, Ohio

Dear Mr. Bartman:

Please let this letter serve as the response to the U.S. Environmental Protection Agency's Request for Information regarding the above-referenced site pursuant to §104(e) of CERCLA (42 U.S.C. §9604(e)) ("Request"). As explained below, Monsanto Company is providing this response on its own behalf and as attorney-in-fact for Pharmacia Corporation.

Prior to 1997 the corporate entity then known as "Monsanto Company" had varied operations throughout the U.S. In March 2000, Pharmacia & Upjohn, Inc., merged into a subsidiary of the entity then known as "Monsanto Company." The entity known as "Monsanto Company" then changed its name to Pharmacia Corporation ("Pharmacia"). Immediately following that renaming, the newly named Pharmacia changed the name of another completely separate subsidiary, which it had newly incorporated in 2000, to "Monsanto Company." Generally speaking, Pharmacia then transferred certain agricultural assets, liabilities, and related records of the pre-merger old "Monsanto Company" to the newly created Monsanto Company. In August 2002 Pharmacia completed the spin off of the new Monsanto Company so that the new Monsanto Company is now an independent publicly-held company. Pursuant to a September 1, 2000, Separation Agreement between Pharmacia and the new Monsanto Company, the new Monsanto Company promised to indemnify and defend Pharmacia with respect to certain matters. On April 15, 2003, Pfizer, Inc., acquired Pharmacia, which is now wholly owned by Pfizer rather than being a publicly-held corporation. While sharing a history, Pharmacia Corporation and the new Monsanto Company are completely independent companies. /

USEPA's letter makes it clear that the Agency intended its letter to be received by the entity that was historically known as Monsanto when it operated the facility at 1515 Nicholas Road, Dayton, Ohio historically known as Dayton Lab. The current Monsanto Company, which was newly incorporated in 2000, is not that company and has no direct connection to the South Dayton Dump & Landfill Site. Because Monsanto Company did not even exist when the Site was operated, Monsanto Company has no CERCLA liability for the Site. However, Monsanto

did receive the Request, so it is providing this response, both on its own behalf and as Pharmacia's attorney-in-fact with respect to this matter.

During the period of the Site's operation, Pharmacia Corporation operated facilities under the Monsanto name throughout the country. However, only two (2) were in the vicinity of the Site: Dayton Lab and a Miamisburg, Ohio facility known as Mound Lab. Because we have determined that only these two (2) facilities had a reasonable potential to have used the Site due to their geographic proximity, we have focused our inquiry on information specific to Mound Lab and Dayton Lab.

From about 1948 until 1988, the entity then known as Monsanto Chemical Company and subsequently known as Monsanto Company (n/k/a Pharmacia Corporation) operated a U.S. government facility in Miamisburg, Ohio, known as Mound Lab. The Mound Lab operations were conducted exclusively under a contract with the U.S. Department of Energy and its predecessor agencies ("DOE Contract").¹ This DOE Contract, originally entered into in 1943, was the result of the war effort during WWII. From about 1936 until 1992, the company also operated Dayton Lab. In its early years, Dayton Lab operations included work under the DOE Contract. To the extent the Request implicates the DOE Contract, we refer USEPA to the U.S. Department of Energy as the owner of information regarding work under the DOE Contract. The attorney for DOE has been informed of this matter and coordination with DOE is underway. To the extent that the Request implicates operations not associated with the DOE Contract, we are providing this response.

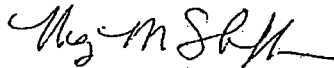
Both Monsanto Company and Pharmacia Corporation object to the overly broad assumption of authority implicit in the Request as well as the overly broad scope of the questions and to the vague and confusing definitions and instructions included in the Request. Overall, we are troubled by the breadth of time that is encompassed by the Request. Nevertheless, consistent with our policies of cooperation with government agencies, the companies are hereby responding to the Request, while at the same time reserving all objections and defenses to the same. We have conducted a fact investigation into the matters identified in the Request and have attached our specific responses and relevant document(s) as Attachment 1. We understand that we have a duty to supplement this response should further relevant and responsive information become known. To the best of my knowledge and belief, the information contained in this response is true and accurate and the documents provided are true and authentic.

¹ The DOE Contract has gone through various redesignations, sequentially, under the following contract number designations: W-7407-ENG-18, W-35-058-ENG-71, AT-33-1-GEN-53, E-33-1-GEN-53, EY-76-C-04-0053, and DE-AC04-76DP00053.

2/21/2006
Fred Bartman
Page 3

If you have any questions, please do not hesitate to call me or our counsel on this matter,
Vicki J. Wright at 317-238-6263.

Very truly yours,

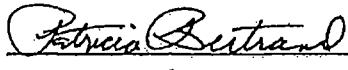

Mary M. Shaffer

Attachment

cc: Vicki J. Wright, Esq., Krieg DeVault LLP
Randy Tormey, Esq., U.S. Department of Energy
Robert Nash, Esq., U.S. EPA

STATE OF MISSOURI)
)SS:
COUNTY OF)

Subscribed and sworn to before me on this 21 day of February, 2006, a notary public
for the County of St. Louis, State of Missouri.

Notary Public 
County of St. Louis

Commission Expires: Jul. 1, 2006

PATRICIA BERTRAND
Notary Public - State of Missouri
County of St. Louis
My Commission Expires Jul. 1, 2006

ATTACHMENT 1

RESPONSE

1. Identify all persons consulted in the preparation of the answers to these questions.

RESPONSE: Mr. George Bemsterboer; Ms. Leslie Woods; Mr. Dunny Toy; Mr. Darrell Sevy; and Mr. Jeffrey Klieve. Any attempts to contact the listed individuals or any other current or former employee of Monsanto Company² or Pharmacia Corporation in regard to this matter must be made through, Vicki J. Wright, as counsel for Monsanto Company and Pharmacia Corporation.

2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these questions and provide copies of all such documents.

RESPONSE: To the extent that this Request seeks the identification and copies of documents that are protected by the attorney client privilege and/or work product doctrine Monsanto Company and Pharmacia Corporation object. Notwithstanding this objection, we are providing copies of those documents consulted, examined, or referred to in preparation of the answers to these questions as Exhibit A.

3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons.

RESPONSE: There are no other known persons that have been identified who are able to provide more detailed or complete responses on behalf of Monsanto Company or Pharmacia Corporation. To the extent there is a potential connection between operations under the DOE Contract and the Site, the U.S. Department of Energy, pursuant to the DOE Contract, has ownership of that information, knowledge and the underlying records. To the extent the DOE Contract is implicated, please contact

² Although USEPA directed the Request to Monsanto Company, it is clear that the Agency intended the Request to relate to the historic operations of Pharmacia that were conducted under the Monsanto name. Therefore, in addition to responding to the Request on its own behalf, Monsanto Company is also responding on behalf of Pharmacia with regard to Pharmacia's historic operations conducted under the Monsanto name for which Monsanto has actual knowledge. This response does not address Pharmacia's historic operations (e.g., records regarding Pharmacia's historic pharmaceutical operations which it acquired through the 2000 merger with Pharmacia & Upjohn, Inc.) other than those conducted under the Monsanto name for which Monsanto has actual knowledge. Unless otherwise indicated, the current Monsanto Company found no information responsive to this Request with regard to itself, a result that is consistent with the fact that the Dayton Lab facility was sold in 1992 and the current Monsanto Company did not exist prior to 2000.

Randy Tormey, Esq.
U.S. Department of Energy
175 Tri-County Parkway
Springdale, Ohio 45246-3222
513-246-0583

4. Identify all persons including respondent's employees, who have knowledge or information about the generation, use, treatment, storage, disposal or other handling of waste material(s) at Monsanto or of transportation of waste material(s) generated by Monsanto and/or of waste material(s) transported to the above-referenced Site.

RESPONSE: No current or former Monsanto employee has been found who recalled transporting waste materials from Dayton Lab specifically to the Site. Please see, generally, Response #1.

To the extent there is a potential connection between operations under the DOE Contract and the Site, the U.S. Department of Energy, pursuant to the DOE Contract, has ownership of all knowledge and underlying records. To the extent the DOE Contract is implicated, please contact:

Randy Tormey, Esq.
U.S. Department of Energy
175 Tri-County Parkway
Springdale, Ohio 45246-3222
513-246-0583

5. Copies of all shipping documents or other business documents relating to the transportation, storage, and/or disposal of waste material(s) or substances at Monsanto and/or the above-referenced Site.

RESPONSE: The document(s) we located which relate to the historic operations at Dayton Lab (not under the DOE contract) and which may relate to the Site are attached hereto as Exhibit A.

To the extent there is a potential connection between operations under the DOE Contract and the Site, the U.S. Department of Energy, pursuant to the DOE Contract, has ownership of all knowledge and underlying records. To the extent the DOE Contract is implicated, please contact:

Randy Tormey, Esq.
U.S. Department of Energy

175 Tri-County Parkway
Springdale, Ohio 45246-3222
513-246-0583

6. A detailed description of the generic, common, and/or trade name and the chemical composition and character (i.e., liquid, solid, sludge) or the waste material(s) generated by you and/or transported to the above-referenced Site.

RESPONSE: The document(s) we located which relate to the historic operations at Dayton Lab (not under the DOE contract) and which may indicate a relationship with the Site are attached hereto as Exhibit A. The document speaks for itself. There is no more currently known historic information as to materials that may have been at the Site than what is attached to this response as contained in Exhibit A. Please note that Na_2CO_3 is the chemical composition for what is known commonly as soda ash. Alumina is a common name for the substance that has a generic chemical composition of Al_2O_3 . Neither Na_2CO_3 nor Alumina are CERCLA hazardous substances.

To the extent there is a potential connection between operations under the DOE Contract and the Site, the U.S. Department of Energy, pursuant to the DOE Contract, has ownership of all knowledge and underlying records. To the extent the DOE Contract is implicated, please contact:

Randy Tormey, Esq.
U.S. Department of Energy
175 Tri-County Parkway
Springdale, Ohio 45246-3222
513-246-0583

7. For each waste material above, please give the total volume, in gallons for liquids and in cubic meters for solids, for which you arranged for disposal and list when those substances were transported to the above-referenced Site.

RESPONSE: The document(s) attached as Exhibit A speaks for itself. No other responsive information is known at this time than what is contained in that document. Please see Response #6.

To the extent there is a potential connection between operations under the DOE Contract and the Site, the U.S. Department of Energy, pursuant to the DOE Contract, has ownership of all knowledge and underlying records. To the extent the DOE Contract is implicated, please contact:

Randy Tormey, Esq.
U.S. Department of Energy
175 Tri-County Parkway
Springdale, Ohio 45246-3222
513-246-0583

8. What arrangements were made to transport the waste material(s) which were taken to the above-referenced Site? What type of transportation was used (i.e., tankers, dump trucks, drums)?

RESPONSE: No information has been located to indicate what arrangements, if any, were made to transport waste materials to the above-referenced site.

9. Who were the transporters of the waste material(s) you generated, and provide their current address?

RESPONSE: Waste from Dayton Lab may have been transported by C.C. Supply, IWD and Chemical Waste Management. We do not have a current address for C.C. Supply. It is believed that the current address for Chemical Waste Management and IWD is 3003 Butterfield Rd, Oakbrook, IL 60521.

10. Copies of all records, including analytical results, and material safety data sheets, which indicate the identify, amounts, and chemical composition and/or chemical character of the waste material(s) transported to, stored, or disposed at Monsanto or transported to or offered for transportation to, storage, or disposal at the Site.

RESPONSE: Please see Response #6, #7.

To the extent there is a potential connection between operations under the DOE Contract and the Site, the U.S. Department of Energy, pursuant to the DOE Contract, has ownership of all knowledge and underlying records. To the extent the DOE Contract is implicated, please contact:

Randy Tormey, Esq.
U.S. Department of Energy
175 Tri-County Parkway
Springdale, Ohio 45246-3222
513-246-0583

11. A description and list of all liability-insurance coverage that is and was carried by you, including any self-insurance provisions that relate to hazardous substances and/or the above-referenced Site together with copies of all of these insurance policies.

RESPONSE: The claims based upon historic operations that were conducted under the Monsanto name for which insurance coverage existed have previously settled as a part of a global insurance claim/coverage dispute. The current Monsanto Company did not exist prior to 2000 so no insurance exists that would include the Site.

12. For each waste material please give the location at which it was disposed of on the Site. Please include a map of the site with disposal locations marked on it.

RESPONSE: No responsive information has been located in the course of our investigation into this matter.

EXHIBIT A

AN ACCOUNT OF OFF-SITE CHEMICAL WASTE LANDFILLS

<u>Site</u>	<u>Method of Disposal/Treatment</u>	<u>Status</u>	<u>Waste Components</u>	<u>Quantity</u>	<u>Approximate Period of Activity</u>
South Dayton Dump and Landfill, Dayton, Ohio	Landfill	Closed	Inorganics (e.g., Na_2CO_3 , alumina) in 100 lb sacks	<800 lbs	1976/77

MONS1040001